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**Notice of Allowability**

Application No.

10/789,216

Examiner

John Sipos

Applicant(s)

NAVARRO ET AL.

Art Unit

3721

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to \_\_\_\_.
2. ☒ The allowed claim(s) is/are 27-47.
3. ☒ The drawings filed on 27 February 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |                                                                                                                    |                                                                                                  |
|--------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                        | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                      |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                               | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date ____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date ____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                              |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material         | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance                        |
|                                                                                                                    | 9. <input type="checkbox"/> Other ____.                                                          |

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with M.R. Phillips on March 25, 2005.

In the specification, page 1, the paragraph under the heading "Related Applications" has been replaced with

-- This application is a continuation-in-part of application No. 10/677,204 filed October 2, 2003, now abandoned.—

Claim 27 has been replaced with the following:

--27. A method for applying tubular bands from a supply of flat tubular material to a series of containers, comprising the steps of:

- a. advancing a first length of flat tubular material from the supply;
- b. opening the first length of flat tubular material to a two dimensional cross sectional shape;
- c. extending a gate to a location for preventing the first length of tubular material from passing the gate;
- d. separating the first length of tubular material from the supply of flat tubular

material to form a cut sleeve upstream of the gate;

- e. positioning a container in axial alignment with the cut sleeve;
- f. retracting the gate to a location for allowing the cut sleeve to pass; and
- g. advancing a second length of flat tubular material to push the cut sleeve

past the gate and onto the container.--.

Claim 34 has been replaced with the following:

-- 34. An apparatus for applying tubular bands from a supply of flat tubular material to each one in a series of containers, comprising:

- a. a supply of tubular material in flat condition;
- b. a spreader for opening the tubular material positioned within the tubular material at a location downstream of the supply,
- c. a cutter positioned downstream of the means for advancing;
- d. a former positioned downstream of the cutter for receiving and opening the tubular material;
- e. a gate mounted adjacent an exit of the former;
- f. means for extending and retracting said gate into and out of the path of a cut length of tubular material;
- g. means for sequentially positioning each one of a series of containers in axial alignment with and downstream of the former; and
- h. means for advancing a subsequent selected length of the tubular material positioned downstream of the spreader to push a cut length of opened tubular material from the former to circumferentially engage a container of the series of containers.--.

In claim 45, the first two lines have been replaced with:

-- The apparatus as described in claim 34 with said former further comprising:--.

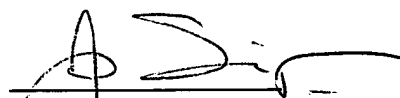
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication should be directed to **Examiner John Sipos** at telephone number **571-272-4468**. The examiner can normally be reached from 6:30 AM to 4:00 PM Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Rinaldi Rada, can be reached at **571-272-4467**.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (703) 308-1148.



**John Sipos**  
**Primary Examiner**  
**Art Unit 3721**